

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CLARENCE MCNAIR, #292-770

Plaintiff

vs.

ANDRE MACKEY,

Defendant.

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Civil Action No.
L-02-2281

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ANSWER TO THE FIRST AMENDED COMPLAINT

Defendant, Andre Mackey, by his attorneys, J. Joseph Curran, Jr., Attorney General of Maryland and Glenn T. Marrow, Assistant Attorney General, hereby submit this Answer to the First Amended Complaint in the above captioned action, pursuant to Fed.R.Civ.P. 8(b) and (c) (2003). In support of his Answer Defendant states the following:

1. Defendant denies information or knowledge sufficient to form a belief as to the truth or veracity of the allegations contained in paragraph 1 of the Amended Complaint.

2. Defendant admits the allegations contained in paragraph 2 of the Amended Complaint to the extent that it alleges that he was a correctional officer of the Division of Pretrial Detention and Services ("the Division") assigned to work the C-Shift at the Baltimore Central Booking

and Intake Center ("BCBIC") starting on September 13, 1999 at 11:00 p.m. and ending on September 14, 1999 at 7:00 a.m.

3. Defendant the allegations contained in paragraph 3 of the Amended Complaint.

4. Defendant admits the allegations contained in paragraph 4 of the Amended Complaint.

5. Defendant denies the allegations contained in paragraph 5 of the Amended Complaint.

6. Defendant admits the allegations contained in paragraph 6 of the Amended Complaint to the extent that it alleges that Plaintiff was brought in to BCBIC for processing on September 13, 1999 and that he had to be placed in an isolation cell. Defendant denies the remainder of paragraph 6 of the Amended Complaint.

7. Defendant denies the allegations contained in paragraph 7 of the Amended Complaint.

8. Defendant denies the allegations contained in paragraph 8 of the Amended Complaint.

9. Defendant denies information and knowledge sufficient to form a belief as to the truth or veracity of the allegation contained in paragraph 9 of the Amended Complaint to that Plaintiff was unconscious. Defendant

admits that Plaintiff had to be transported to an outside hospital for medical treatment and that he ultimately required surgery at the University of Maryland Medical Center.

10. Defendant denies information and knowledge sufficient to form a belief as to the truth or veracity of allegations contained in paragraph 10 of the Amended Complaint.

11. Defendant denies the allegations contained in paragraph 11 of the Amended Complaint.

12. Defendant denies the allegations contained in paragraph 12 of the Amended Complaint.

13. Defendant admits the allegations contained in paragraph 13 of the Amended Complaint.

14. Defendant denies the allegations contained in paragraph 14 of the Amended Complaint.

15. Defendant denies the allegations contained in paragraph 15 of the Amended Complaint.

16. Defendant denies information or knowledge sufficient to form a belief as to the truth or veracity of the allegations contained in paragraph 16 of the Amended Complaint.

17. Defendant admits the allegations contained in paragraph 17 of the Amended Complaint.

18. Defendant denies the allegations contained in paragraph 18 of the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE

Defendant applied force against Plaintiff in a good faith effort to restore discipline and order and thus, he is entitled to qualified immunity.

SECOND AFFIRMATIVE DEFENSE

Defendant's use of force against Plaintiff was justified and permitted by State law, regulation and policy.

THIRD AFFIRMATIVE DEFENSE

Defendant used of force against Plaintiff was in self-defense and permitted by State law, regulation and policy.

WHEREFORE, Defendant respectfully request that the Court:

- (1) dismiss the Amended Complaint in its entirety;
- (2) award judgment in his favor; and
- (3) award any other relief that is appropriate and just.

Respectfully Submitted,

J. JOSEPH CURRAN, JR.
Attorney General of Maryland

Glenn T. Marrow
Assistant Attorney General
Federal Bar. No. 23731

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Attorneys for Defendant
Andre Mackey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on this 3rd Day of July 2003, a copy of the foregoing Answer to the First Amended Complaint was served on the person listed below by e-mail and by first class mail, postage prepaid:

Mont Brownlee III
Goodell, DeVries, Leech and Dann, LLP
ON South Street
20th Floor
Baltimore, Maryland 21202

Glenn T. Marrow